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June 28, 2017

VIA EMAIL ONLY

Lora Friedemann
Fredrickson & Byron, P.A.
200 South Sixth Street
Suite 4000
Minneapolis, MN 55402

> **Re:** **Fair Isaac Corp. v. Federal Insurance Co.,**
> **No. 16-cv-01054-WMW-TNL (D. Minn. filed April 21, 2016)**

Dear Lora:

I am writing regarding Federal's proposed custodians, keyword search terms, and date restrictions Federal intends to use to locate emails responsive to FICO's document requests, as described in your letter dated June 16, 2017. There are several issues with the proposed search, as explained more fully below.

Documents Reflecting Contract Formation

Federal's proposed search will not capture any documents from the time the Agreement and Amendments One and Two were negotiated and executed in 2006. Specifically, the custodian James Black is missing from the search. Mr. Black was identified in Federal's answer to Interrogatory No. 5 as "a person with knowledge regarding the negotiation of the Agreement." FICO has produced correspondence between Mr. Black and Jandeen Boone, a former attorney for FICO, which demonstrates Mr. Black's involvement in the negotiation and execution of the Agreement and Amendments One and Two.

Please include James Black in the following search from 1/1/2006 to 12/31/2006 to capture documents regarding the negotiation of the Agreement and Amendments One and Two:

- FICO or "Fair Isaac" or Blaze

Legal Request Numbers

The Agreement and Amendments One and Two were assigned specific FICO legal request numbers, which are missing from your proposed search. These numbers appear in

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communications between the parties during the negotiation, and they appear in the header on the face of the Agreement and Amendments One and Two. The legal request numbers are as follows:

- Software License and Maintenance Agreement: FI LR # 30073
- Amendment One: FI LR # 30274
- Amendment Two: FI LR # 33073

Searching the legal request numbers will capture documents and communications regarding the negotiation and execution of the Agreement and Amendments One and Two, which are responsive to FICO's Request Nos. 2-4. Searching the legal request numbers will also capture emails to which the Agreement and/or Amendments One and Two were attached.

Please conduct the following search of the custodians James Black, Tamra Pawloski, Ramesh Pandey, Henry Mirolyuz, and Pamela Lopata without a date restriction:

- (FICO or "Fair Isaac" or Blaze) and (30073 or 30274 or 33073)

Documents Reflecting Federal's Use of the Blaze Advisor® Software

Documents and emails reflecting the parties' course of dealing under the Agreement are relevant to Federal's assertion that FICO consented to use of the Blaze Advisor® software by all subsidiaries of Federal through the parties' course of dealing or through specific Statements of Work. The parties' course of dealing over the entire life of the Agreement is relevant, for example, to Federal's assertions that the parties' course of dealing modified the Agreement, including the assertion in its supplemental answers to Interrogatory No. 2 that "the parties treated the license as including Federal Insurance Company and its affiliates, subsidiaries and divisions." The search of the custodians Tamra Pawloski, Ramesh Pandey, Henry Mirolyuz, and Pamela Lopata for the terms FICO or "Fair Isaac" or Blaze will capture relevant documents, but Federal's proposed search limits the date from 1/1/2015 to 4/21/2016. This date limitation is too narrow and will exclude many relevant documents from the course of the entire Agreement.

Please remove the date restriction in the first proposed search on the list in order to capture documents reflecting the parties' entire course of dealing.

Documents Reflecting the International Use of the Blaze Advisor® Software

Documents and emails reflecting the parties' course of dealing under the Agreement are relevant to Federal's assertion that FICO consented to the international use of the Blaze Advisor® software through the parties' course of dealing or through specific Statements of Work. The search of the custodians Patrick Sullivan and Tamra Pawloski for documents regarding the implementation of the Blaze Advisor® software in the UK and Canada (the third proposed search on the list) is limited to the year 2012. This narrow date range will not capture all relevant documents regarding the parties' course of dealing under the Agreement or the international use of the Blaze Advisor® software.

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Please remove this date restriction in order to capture all relevant emails and associated documents regarding the parties' course of dealing and international use of the Blaze Advisor® software.

Descriptions of the License

The fourth proposed search on the list includes searching the custodians Tamra Pawloski and Patrick Sullivan for the terms (FICO or "Fair Isaac" or Blaze) and "license." This search excludes the terms "agreement" and "contract," which are also likely to appear on relevant documents.

Please expand this search as follows:

- (FICO or "Fair Isaac" or Blaze) and (license or agreement or contract)

Custodians

Aside from the omission of James Black, as described above, FICO does not object to Federal's proposed custodians at this time. However, FICO reserves the right to request the search of additional custodians once it has reviewed Federal's production of emails if such review leads to the "reasonable belief that the inclusion of additional custodians would likely result in the production of additional non-cumulative responsive documents" as provided in the parties' stipulated E-Discovery Agreement.

I am available to discuss the above-identified issues at your earliest convenience. Please let me know a time that works for you before July 7.

Sincerely,

Allen Hinderaker